

NUNC PRO TUNC

AUG 18 2008

UNITED STATES DISTRICT COURT

FILED

SOUTHERN DISTRICT OF CALIFORNIA

2008 AUG 19 PM 3:02

GREGORY LEE GRAY,
PLAINTIFF,

CIVIL NO. 08-1178(NLS)
CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY Rm DEPUTY

V.

JOHN DOE, Director of California
Dept. of Corrections and Rehabilitation,
et al.,

DEFENDANTS. /

MOTION TO REORDER AND REISSUE
MOTION TO PROCEED IN FORMA
PAUPERIS. UNDER 28 U.S.C. §1915(a).

Plaintiff in this above cause of action is requesting an order to re-issue his motion to proceed in forma pauperis in support of his 28 U.S.C. §1983 civil rights complaint that was filed.

MOTION TO PROCEED IFP.

The Honorable Federal Judge Napoleon A. Jones, Jr, is claiming that (i) the plaintiff as within his motion to dismiss, that i have a complaint pending and a civil claim that i'am currently litigating while this complaint has been filed with this court. His assumption is "incorrect" and (i) the plaintiff do not have "any other" litigation pending, nor "did i ever" have any litigation pending that was even nearly closely related to the issues filed within this above complaint filed on the said defendants.

Therefor, there is no repeated pending or previous litigated claim. as you cited Cato V. United States, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995). I had a Small Claims action that was denied before i could even file this action and the Lassen Superior Court Judge denied that on 7-1-2008. The claim was filed for Obstruction of Justice and a Denial of Legal Remedy. Meaning the High Desert State Prison Staff would not let me go to the phone to conduct my civil hearing Via Telephone.

Now i ask you, is that in "anyway" related to this case ? No it is not, and this instant civil complaint against the above defendants involves R.J. Donovan Correctional Facility Staff placing me in Administrative Segregation for nothing. Which is "False Imprisonment" "Discrimination" "8th Amendment violation" etc.

Thus, the Judges decision to dismiss my complaint as frivolous, malicious, or moot is "Highly Unethical" and can not stand, because there are no civil action or other cases pending even "closely" related to this civil complaint that is being filed. So the dismissal under 28 U.S.C. §1915(b)(1), citing Resnick V. Hayes, 213 F.3d 443, 446-47 (9th Cir. 2000); and Cato V. United States, 70 F.3d 1130, 1105 n.2 (9th Cir. 1995), has "no ground" or "merit" within its dismissal.

So if there is: (1) No other litigation pending; (2) or No other case that is "directly" related to this above civil action; and (3) Since plaintiff has filed a civil claim of clear "facts" then this civil court must have his civil action and/or complaint on its merits be heard.

This Federal Court Judge has "No Evidence" of any litigation pending that is directly related to the issues filed within this 28 U.S.C. §1915 (IFP) and 42 U.S.C. §1983 Civil Complaint that has been filed in this above cause of action.

Therefor, this court and/or civil Judge must "Reorder" and "Re-issue" the plaintiff's Motion to Proceed In Forma Pauperis under 28 U.S.C. §1915(a).

It is so requested by: (The Plaintiff) Mr. Gregory L. Gray J05459, and the order filed on 8/04/2008, must be rescinded by the Judge HON. Napoleon A. Jones JR. The facts are "clear" and there is no related cases filed or pending that is related to this civil complaint that is filed.

IN PROPRIA PERSONA
GREGORY LEE GRAY J05459
H.D.S.P., B-2-213
P.O. BOX 3030
SUSANVILLE, CALIFORNIA
96127

SIGN Gregory Lee Gray

DATE 8/12/2008

PROOF OF SERVICE BY MAIL
[C.C.P. 1013, 2015.;28 U.S.C. 1746]

STATE OF CALIFORNIA)
)
) SS:
County of Lassen)

I, (A) **GREGORY LEE GRAY**, am a resident of the High Desert State Prison at Susanville, County of Lassen, California, am at least 18 years of age. My mailing address is P.O. Box 3030, Susanville, CA 96127.

On (B) **AUGUST 12,** 20**08**, I served a true and correct copy of the following document(s):

MOTION TO REORDER AND REISSUE

(C)

MOTION TO PROCEED IN FORMA

PAUPERIS. UNDER 28 U.S.C. §1915(a).

on each party listed below by placing it in an envelope, with adequate postage or provided, and by depositing said envelope in a box for the United States Mail at HDSP, P.O. Box 3030, Susanville, CA 96127.

Each party to the action has been duly served.

This copy is being mailed to (D):

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
880 FRONT STREET, SUITE 4290
SAN DIEGO, CALIFORNIA 92101-8900.**

I have mailed additional copies to (D):

There is regular delivery service by the United States Mail between the above place a mailing and the parties' listed.

I declare, under penalty of perjury, that the foregoing is true and correct.
Dated (E): **AUGUST 12,** 20**08**, at Susanville, California.

Signed: **Gregory Lee Gray** CDC I.D. # **JD5459**

ACKNOWLEDGEMENT OF MAILING

DATE: **8/12/2008**

SIGNED: **Gregory Lee Gray**